

## **REMARKS**

Claims 1-26, all the claims identified by the Examiner as being pending in the application, stand rejected. Claims 1, 2, 9, 10, 13, 14, 17 and 18 are amended.

### ***Information Disclosure Statement***

Applicants thank the Examiner for reviewing and signing the Information Disclosure Statement filed on 22 February 2006, as well as the cited art.

### ***Drawings***

The Examiner objects to the drawing for several reasons. These objections are traversed for at least the following reasons.

First, the Examiner states that the drawing fails to comply with 37 CFR 1.84(p)(5) because it does not include the reference sign P2, as mentioned in the description. Applicants respectfully submit that the sign appears in the original figure, lower center.

Second, the Examiner states that the drawings include a reference sign 118, but that the sign is not mentioned in the specification. An appropriate amendment to the specification has been made to refer to the printer 118.

### ***Specification***

The abstract of the disclosure is objected to because it was not provided on a separate sheet and because it contains self-evident clauses. Correction has been made.

### ***Claim Objections***

Claims 1, 2, 10, 17 and 18 are objected to because of several specifically identified informalities.

First, the Examiner asserts that the claims contain various grammatical errors, such as “..detected consumers it therefore able to..”. Appropriate correction has been made, to the extent Applicants can identify those errors that may be of concern to the Examiner.

Second, the Examiner states that words are repeated or used redundantly such as the phrase ...the said... Appropriate correction has been made.

***Claim Rejections - 35 USC § 112***

**Claims 1-26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite**

. This rejection is traversed for at least the following reasons.

The Examiner states that claims 1-26 are replete with limitations for which there is insufficient antecedent basis and identifies the limitations as including “consumer/s,” “individual consumer/s,” “offer,” “target offers,” “central station,” “first processor,” “file,” “list,” “user’s identifying data,” “data,” “database,” “office server,” “store server,” and “checkout terminal.”

Applicants have amended the claims to provide proper antecedent basis, where appropriate. Applicants respectfully submit that the absence of an article “a” or “an” before a word does not automatically mean the word has no antecedent basis. Thus, the word “consumers” alone need not have an article.

**Claims 7 and 21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite.** This rejection is traversed for at least the following reasons.

The Examiner asserts that the terms SMS, EMS, and MMS are not defined in the specification. For the purposes of examination, examiner interpreted the terms to mean short message service, enhanced message service and multimedia message service, respectively.

These are all terms of art that one skilled in the art would understand, as the Examiner has clearly understood. Applicants submit that no change is needed. However, in order to remove this basis for rejection, the specification has been amended.

*Claim Rejections - 35 USC § 102*

**Claims 1-6, 17-20, 25 and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Millikan (U.S. 2003/0105667).** This rejection is traversed for at least the following reasons.

Claims 1 and 17

The Examiner asserts that Millikan discloses the limitations of claim 1, including:

a detection device for detecting consumers, in proximity to a location where merchandise is available to the consumers, without requiring interaction by the consumers ([0021, "...a consumer detection and/or identification system..."]),

an output device for supplying a message to a detected consumer, providing offers available at the location to the consumer ([0021], "...a plurality of message providers..."),

wherein the detected consumers it therefore able to receive offers without physical interaction on his or her part, and to avail himself or herself of the offers contained in the message at the location (see at least 0026, "...system does not require active participation by the consumer...").

Similarly, the Examiner finds the recited steps in method claim 17 are found in Millikan.

The claims has been amended to expressly state that the retail locations include a first processor for or steps of generating a plurality of available offers and for identifying specific ones of the plurality of offers that are applicable to a detected consumer based on data stored in a database relating to characteristics of the detected consumer, so that from the plurality of available offers, those specific offers which relate to the detected consumer based on the characteristics of the detected consumer are assembled and presented respectively to individual detected consumer. Applicant would respectfully submit that Millikan does not teach or suggest

such structure and steps, particularly the assembly of selected ones of several available offers for a detected consumer.

Claim also calls for “a central station comprising a second processor in communication with the first processor in each of said retail locations and being operative to develop a target file for at least one detected consumer,” and a “retail server, comprising an inventory system and a consumer data base, in communication with each of said first processor and said second processor, and operative to provide price, inventory and consumer data for processing by said first and second processors.” Similar functions appear in method claim 17.

Applicants would submit that the stated relationship among first and second processors, together with the stated relationship to a “retail server” as recited in claims 1 and 17 is not found in Millikan.

Claims 2 and 18

The Examiner asserts that Millikan, as shown, discloses the claimed limitation. Applicants would rely on the patentability of parent claims 1 and 17

Claim 3

The Examiner asserts that Millikan, as shown, discloses the claimed limitation. Applicants would rely on the patentability of parent claim 1.

Claim 4

The Examiner asserts that Millikan, as shown, discloses the claimed limitation. Applicants would rely on the patentability of parent claim 1.

Claim 5

The Examiner asserts that Millikan, as shown, discloses the claimed limitation. Applicants would rely on the patentability of parent claim 1.

Claim 6

The Examiner asserts that Millikan, as shown, discloses the claimed limitation. Applicants would rely on the patentability of parent claim 1.

Claim 19

The Examiner asserts that Millikan, as shown, discloses the claimed limitation. Applicants would rely on the patentability of parent claim 17.

Claim 20:

The Examiner asserts that Millikan, as shown, discloses the claimed limitation. Applicants would rely on the patentability of parent claim 17.

Claim 25

The Examiner asserts that Millikan, as shown, discloses the claimed limitation. Applicants would rely on the patentability of parent claim 17.

Claim 26

The Examiner asserts that Millikan, as shown, discloses the claimed limitation. Applicants would rely on the patentability of parent claim 17.

***Claim Rejections - 35 USC § 103***

**Claims 7-16 and 21-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Millikan (U.S 2003/0105667) in view of Avallone et al. (U.S. 2002/0147642) and in view of official notice.** This rejection is traversed for at least the following reasons.

Claims 7 and 21

The Examiner admits that Millikan does not disclose that the message is an SMS, EMS or MMS message. The Examiner takes Official Notice that it is old and well known in the art that messages sent to mobile phones and PDAs may be SMS, EMS or MMS. The Examiner concludes that it would have been obvious to one having ordinary skill in the art at the time the invention was made to send text messages to a mobile phone or PDA rather than audio/video messages or in addition to audio/video data (see at least 0029) because text messages can be

distributed faster and cheaper and require less memory for storage both on a store's servers and on a recipient's device.

Applicants submit that these claims would be patentable for the reasons given for parent claim 1.

Claim 8 and 22

The Examiner admits that Millikan does not disclose that the output device is a printer for printing a document containing the offer and looks to Avallone (see at least 0055, "... a printer for printing our, e.g., discount coupons...") for such teaching. The Examiner concludes that it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the targeted advertising system of Millikan with the device of Avallone to allow customers to print desired ads or coupons because electronic devices such as cellular phones and PDAs have limitations such as memory or power that limit a customers accessibility to coupons provided thereon, a printing means helps a customer retain a coupon as well as free-up memory on his/her mobile device.

The Examiner asserts that Millikan combined with Avallone, as shown, discloses the claimed limitation. Applicants would rely on the patentability of parent claim 1.

Claim 9

The Examiner asserts that Millikan teaches a processor for receiving a target file of offers for individual consumers from a central station, the target offers being based on data held at the central station relating to personal information associated with individual consumers (0028) and accessed from the identification system and storage, (0029) to select a message, which may be provided by outside sources such as vendors. The Examiner admits that Millikan does not disclose a central station, or a remote server that serves multiple stores, but looks to Avallone for a central station (0059, "...the server's controller") that communicates with one or more remote

mainframe microprocessors. The Examiner notes that data contained in databases on the servers is described at paragraphs 0058 and 0061. The Examiner concludes that it would have been obvious to provide the targeted advertising system of Millikan with networking capabilities, including multiple servers and remote servers, based on the disclosure of Avallone to improve data accuracy and reduce system installation costs.

Applicants would rely on the patentability of parent claim 1 but also would stress that the specific relationship and functions as described are not taught in either Millikan or Avallone. It is not the network alone, but the distribution of the functions that permit both central and local control of the messages based upon detection of particular users, that is of value and distinguishes over the prior art.

Claim 10

The Examiner asserts that Millikan/Avallone discloses the limitations as shown in the rejections of claims 1 and 9. Further Examiner takes Official Notice that it is old and well known in the art to associate coupon and other customer incentive databases with a POS machine such that coupons are applied or downloaded to the POS upon swiping a customer/loyalty card. The Examiner admits that Millikan does not disclose multiple servers but asserts that Avallone, as shown, does.

However, as already demonstrated, neither reference discloses or even suggests the features as claimed.

Claim 11:

The Examiner asserts that Millikan combined with Avallone, as shown, discloses the claimed limitation. Applicants would rely on the patentability of parent claims 1, 9 and 10.

Claim 12:

The Examiner asserts that Millikan combined with Avallone, as shown, discloses the claimed limitation. Applicants would rely on the patentability of parent claims 1, 9 and 10.

Claim 13:

The Examiner asserts that the combination of Millikan/Avallone discloses the limitations as shown in the previous rejections and admits that Millikan does not disclose a second processor, but looks to Avallone for such teaching.

Applicants would rely on the patentability of parent claims 1, 9 and 10.

Claim 14:

The Examiner asserts that Millikan combined with Avallone, as shown, discloses the claimed limitation. Applicants would rely on the patentability of parent claims 1, 9 and 10.

Claim 15:

The Examiner asserts that Millikan combined with Avallone, as shown, discloses the claimed limitation. Applicants would rely on the patentability of parent claims 1, 9 and 10.

Claim 16:

The Examiner asserts that Millikan combined with Avallone, as shown, discloses the claimed limitation. Applicants would rely on the patentability of parent claims 1, 9 and 10.

Claim 23:

The Examiner asserts that Millikan combined with Avallone, as shown, discloses the claimed limitation. Applicants would rely on the patentability of parent claims 1, 9 and 10.

Claim 24:

The Examiner asserts that Millikan combined with Avallone, as shown, discloses the claimed limitation. Applicants would rely on the patentability of parent claims 1, 9 and 10.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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